

★ MAR 05 2015 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

-----x
PATRICIA HODGE,

NOT FOR PUBLICATION

Plaintiff,

MEMORANDUM
AND ORDER

-against-

14-CV-4031 (WFK)

TENENBAUM BERGER & SHIVERS, LLP,

Defendant.

-----x
WILLIAM F. KUNTZ, II, United States District Judge

On June 27, 2014, plaintiff Patricia Hodge, appearing *pro se*, filed this action against the law firm that previously represented her in a state court action, seeking declaratory and monetary damages. Dkt. 1. Plaintiff paid the filing fee to commence this action. By Decision and Order dated July 3, 2014 ("Order"), the Court dismissed the Complaint for lack of subject matter jurisdiction pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P."). Dkt. 4. On July 3, 2014, the Clerk of Court entered Judgment in favor of Defendant. Dkt. 5. Thereafter, Plaintiff filed a timely Notice of Appeal. By Mandate issued on January 13, 2015, the United States Court of Appeals for the Second Circuit dismissed Plaintiff's appeal. On February 6, 2015, Plaintiff moved for reconsideration of the Court's Order, *see* Dkt. 29, which was denied by Order dated February 19, 2015. Dkt. 30. Plaintiff now moves for "emergency relief, to remand this case from the United States Court of Appeals for the Second Circuit, to U.S. District Court Eastern District of New York" pursuant to Fed. R. Civ. P. 41(d)(2). Dkt. 31.

Rule 41(d)(2) does not provide for the relief Plaintiff seeks and there is no basis to liberally construe Plaintiff's request as arising under any other Federal Rule or under a federal statute. The Second Circuit dismissed Plaintiff's appeal and did not remand the case to this Court for further proceedings.

CONCLUSION

Accordingly, Plaintiff's motion is DENIED. No further action will be taken in this case. The Clerk of Court is hereby directed to **return without filing** any further submissions filed under this docket number, other than a notice of appeal, to the Plaintiff. Although Plaintiff paid the filing fee to commence this action, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/S/ Judge William F. Kuntz, II

WILLIAM F. KUNTZ, II
United States District Judge

Dated: March 5, 2015
Brooklyn, New York